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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,899	12/10/2003	Jean-Paul Lecoutre	Q74933	5152
23373	7590	07/20/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			NICOLAS, FREDERICK C	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/730,899	LECOUTRE, JEAN-PAUL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Frederick C. Nicolas	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 June 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 and 16-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-13 and 16-21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/26/2006 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-13,16-18,20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims should be revised to conform to U. S. Patent Office practice.

Applicant is advised to completely review the claims for errors as the following is not intended to cover all errors.

I- As to claim 1, line 3, it appears that "said dispenser" should be --said fluid dispenser-- for clarity.

II- As to claim 8, line 1, it appears that "the application zone of a sheet" should be --the at least one application zone of said sheet-- for clarity.

III- As to claim 9, line 1, it appears that “at least one sheet” should be --the at least one sheet-- for clarity.

IV- As to claim 10, line 1, it appears that “the application zone” should be --the at least one application zone--.

V- As to claim 11, line 1, the claimed limitation “the junction zone” lacks antecedent basis.

VI- As to claim 12, line 2, it appears that “a dispenser head” should be --the dispenser head-- to prevent double inclusion in the claim.

VII- As to claim 16, lines 3-4, the claimed steps “causing a dispenser body defining a substantially cylindrical segment” is unclear and appears to be a double inclusion of the claimed subject matter recited in claim 1, lines 6-7.

VIII- As to claim 17, line 1, it appears that “at least one sheet” should be --the at least one sheet-- for clarity.

IX- As to claim 18, line 2, it appears that “dispenses fluid” should be --dispenses the fluid-- for clarity.

X- As to claim 20, line 2, it appears that “dispenses fluid” should be --dispenses the fluid-- for clarity.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3,18 are rejected under 35 U.S.C. 102(b) as being anticipated by Jimenez 5,709,320.

Jimenez discloses a fluid dispenser assembly as seen in Figure 1, which comprises a fluid dispenser having a wrapper (22) encasing the dispenser at least in part (col. 2, ll. 25-33), the wrapper defining at least one application zone that contacts the dispenser as seen Figure 1, wherein the wrapper comprises outer side edges (24) by which the assembly is held securely in a hand as seen in Figure 1, wherein the dispenser comprises a body (14) forming at least one substantially cylindrical segment, the segment defining an affixing zone that contacts the application zone of the wrapper as seen in Figure 1, and the dispenser further comprises a dispenser head (52) that actuates the dispenser when depressed while holding the wrapper by the outer side edges (col. 3, ll. 10-23).

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jimenez 5,709,320.

Jimenez has taught all the features of the claimed invention except that the application zone of the sheet extends substantially over nearly one half of the periphery.

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At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify Jimenez's at least one application zone of the sheet to extend substantially over nearly one half of the periphery of the substantially cylindrical segment, because applicant has not disclosed that having the at least one application zone of the sheet to be extended substantially over nearly one half of the periphery of the substantially cylindrical segment provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with Jimenez's application zone because, Jimenez's application zone holds firmly the container.

Therefore, it would have been an obvious matter of design choice to modify Jimenez's application zone to obtain the invention specified in claim (8).

8. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jimenez 5,709,320 in view of Garcia et al. 6,698,627.

Jimenez has taught all the features of the claimed invention except that the at least one sheet has a face that is adhesive at least in part. Garcia et al. teach the use of a least one sheet (41) having a face with an adhesive (col. 4, ll. 51-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teaching of Garcia et al. onto the at least one sheet of Jimenez, in order to hold in place the at least one sheet, which is a well-known fixing technique.

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9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jimenez 5,709,320 in view of Bachand et al. 5,234,132.

Jimenez has taught all the features of the claimed invention except that the head being capped by a removable protective cap. Bachand et al. teach the use of a dispenser head (16) being capped by a removable protective cap (20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the removable cap of Bachand et al. onto Jimenez's dispenser head as taught in (col. 3, ll. 18-23), in order to completely cover the dispenser head and to prevent inadvertent dispensing of material from the container.

10. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jimenez 5,709,320.

Jimenez discloses a fluid dispenser assembly as seen in Figure 1, which comprises a dispenser (col. 2, ll. 25-31), a dispenser head (52) that actuates the dispenser when depressed (col. 3, ll. 10-23), a wrapper (22) encasing at least a portion of the dispenser and defining at least one application zone that contacts the dispenser as seen Figure 1, wing (24) that extends away from the dispenser and the dispenser head extends beyond the wrapper as seen in Figure 1, wherein the dispenser assembly is structured to be actuated by gripping at least one wing while depressing as seen in Figure 1. Jimenez lacks that the wrapper includes wings.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate Jimenez's wing, since it has been held that mere

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duplication of the essential working parts of a device involves only routine skill in the art.

As per MPEP 2144.04

***Allowable Subject Matter***

11. Claims 4-7,13,16-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De Laforcade et al. 5,203,478, Decottignies et al. 6,619,505 and Ichikawa et al. 5,474,212 disclose other types of fluid dispenser assembly.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN  
July 11, 2006



7/11/06

Frederick C. Nicolas  
Primary Examiner  
Art Unit 3754